

### III. Remarks

#### A. Status of the Application

Claims 1-8 and 10-37 are pending of which claims 1, 14, 27, 28, 30, and 34 are independent. By this paper, claims 1, 14, 21, 27, 28, 30, and 34 are amended. Reconsideration of the pending claims is respectfully requested in light of the above amendments and the following remarks.

#### B. Allowable Subject Matter

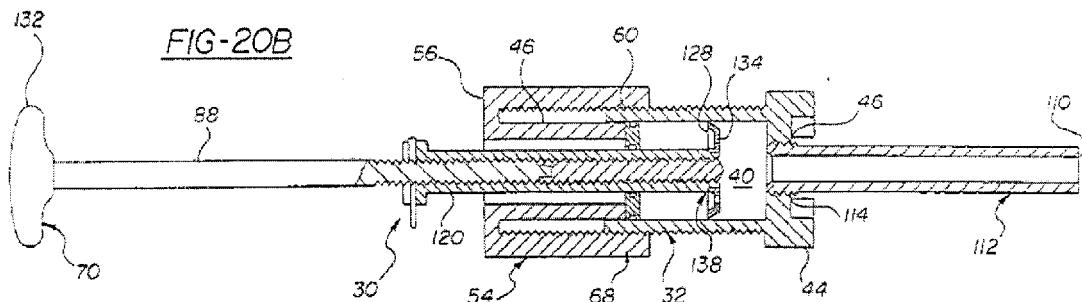
Applicants respectfully submit that the Final Office Action failed to substantively address claims 34-37. Accordingly, Applicants presume that claims 34-37 are allowable.

#### C. Claim Rejections 35 U.S.C. §102

The Final Office Action rejected independent claims 14 and 27 under 35 U.S.C. §102 as being anticipated by U.S. Patent Publication No. 2003/0012080 to Coffeen et al. (“Coffeen”). Applicants respectfully traverse this rejection.

##### 1. Independent Claim 14

With respect to amended independent claim 14, Coffeen does not disclose a surgical system for delivery of viscous fluid including a “reservoir member having a proximal portion including internal threads,” and “a plunger member sized and shaped to engage the reservoir member in a threaded engagement with the internal threads of the reservoir member.” As shown below in FIG. 20B reproduced from Coffeen, the Final Office Action identified mixing chamber 40 and piston 46 as corresponding to the claimed reservoir member and plunger member, respectively.



In that regard, mixing chamber 40 has external male threads (reference numeral 32) such that “piston [46 moves] through the mixing chamber 40 along the male threads [32]. Thus, Coffeen teaches that piston 46 engages the external threads 32 of mixing chamber 40. Accordingly, Coffeen does not disclose “a plunger member sized and shaped to engage the reservoir member in a threaded engagement with the internal threads of the reservoir member,” as recited by claim 14. Therefore, Applicants respectfully request that the Examiner reconsider and pass claim 14 to allowance.

2. Independent Claim 27

Independent claim 27 has been amended to recite some features similar to claim 14. In particular, claim 27 recites a surgical system for delivery of viscous fluid “wherein the means for ejecting has an external threaded portion and the means for storing has an internal threaded portion such that the means for ejecting engages the means for storing in a threaded engagement during the ejecting of viscous fluid from the means for storing.” Accordingly, claim 27 is allowable for at least the same reasons as discussed above for claim 14. Therefore, the Applicants respectfully request that the Examiner reconsider and withdraw the rejection and pass claim 27 to allowance.

**C. Claim Rejections 35 U.S.C. §103**

The Office Action rejected independent claims 1, 28, and 30 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2004/0204715 to Evans et al. (“Evans”) in view of U.S. Patent No. 4,874,381 to Vetter (“Vetter”). Applicants traverse the rejection on the grounds that the combination of the cited references are defective in establishing a *prima facie* case of obviousness.

1. Independent Claim 1

With respect to amended independent claim 1, even when combined, Evans and Vetter do not disclose or suggest a surgical system for delivery of viscous fluid comprising a “plunger head having a first circumference and the distal end of the plunger member having a second circumference wherein the first circumference and the second circumference are substantially equal when the plunger head engages and drives the viscous fluid through the reservoir member.”

Applicants agree with the Final Office Action that Evans does not disclose the claimed plunger head. The Final Office Action relies on Vetter for this teaching. However, Applicants respectfully submit that Vetter fails to disclose the claimed plunger head as recited in amended claim 1.

As shown below in FIG. 2, Vetter discloses that:

piston 3 is provided with an axially opening blind bore 16 for a threaded stud 17 on the end of the stem 4. The blind bore is provided adjacent its mouth with an internal thread 18 which can engage threadedly the stud 17, but beyond this thread 18 is cut away so that once the thread portion of stud 17 passes the screw thread 18, the stem 4 can freely rotate with rotatable entrainment of the piston 3.

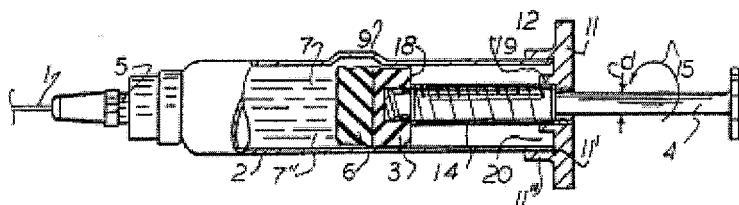


FIG.2

Thus, piston 3 cannot be considered as corresponding to the claimed plunger head because piston 3 does not have a circumference substantially equal to the end of the stem 4. No other element or component of Vetter meets all the features of the claimed plunger head. Thus, even when combined, Evans and Vetter fail to disclose or suggest a “plunger head having a first circumference and the distal end of the plunger member having a second circumference wherein the first circumference and the second circumference are substantially equal when the plunger head engages and drives the viscous fluid through the reservoir member,” as recited by amended claim 1. Therefore, the Applicants respectfully request that the Examiner reconsider and withdraw the rejection and pass claim 1 to allowance.

## 2. Independent Claims 28 and 30

Independent claims 28 and 30 have been amended to recite some features similar to claim 1. In particular, claim 28 recites a “plunger head having a first circumference and the distal end

of the plunger member having a second circumference wherein the first circumference and the second circumference are substantially equal when the plunger head engages and drives the viscous fluid through the reservoir member.” Similarly, claim 30 recites a “plunger head having a first circumference and the distal end of the plunger member having a second circumference wherein the first circumference and the second circumference are substantially equal when the plunger head engages and drives the viscous fluid through the reservoir member.” Accordingly, claims 28 and 30 are allowable for at least the same reasons as discussed above for claim 1. Therefore, the Applicants respectfully request that the Examiner reconsider and withdraw the rejection and pass claim 28 and 30 to allowance.

**D. Dependent Claims**

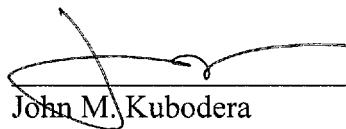
Claims 2-8 and 10-13 depend from independent claim 1. Claims 15-26 depend from independent claim 14. Claim 29 and claims 31-33 depend from independent claims 28 and 30, respectively. Claims 35-37 depend from independent claim 34. These claims are believed to be distinct from the art of record, for example for the same reasons discussed above with respect to their respective independent claims. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of these claims.

#### IV. Conclusion

In view of the foregoing remarks, all of the claims currently pending in this application are in a condition for allowance. The Examiner is invited to contact the undersigned at 408-548-3929 to discuss any remaining issues in an effort to expedite the allowance of this application.

The Final Office Action contains characterizations of the claims and the related art of which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Final Office Action.

Respectfully submitted,



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